

House File 645 - Introduced

HOUSE FILE 645

BY COMMITTEE ON ENVIRONMENTAL
PROTECTION

(SUCCESSOR TO HSB 135)

A BILL FOR

1 An Act relating to underground storage tanks, including by
2 creating the Iowa tanks fund and Iowa tanks fund financing
3 program, repealing the Iowa comprehensive petroleum
4 underground storage tank fund, and eliminating the Iowa
5 comprehensive petroleum underground storage tank fund
6 board, requiring a study, and including effective date and
7 transition provisions.

8 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

DIVISION I

IOWA TANKS FUND

Section 1. Section 455B.471, subsection 1, Code 2021, is amended by striking the subsection.

Sec. 2. Section 455B.471, Code 2021, is amended by adding the following new subsections:

NEW SUBSECTION. 1A. "*Claimant*" means an owner or operator who has received assistance under the Iowa tanks fund or its predecessor, the Iowa comprehensive petroleum underground storage tank fund created in section 455G.3, Code 2020.

NEW SUBSECTION. 1B. "*Community remediation*" means a curriculum of coordinated testing, planning, or remediation involving two or more tank sites potentially connected with a continuous contaminated area, pursuant to rules adopted by the commission under section 455B.474. A community remediation does not expand the scope of coverage otherwise available or relieve liability otherwise imposed under state or federal law.

NEW SUBSECTION. 2A. "*Costs*" means all costs, charges, expenses, or other indebtedness incurred by a claimant that are determined by the department to be reasonable for carrying out all works and undertakings necessary or incidental to the accomplishment of any project. "*Costs*" includes reasonable attorney fees and costs of litigation for which moneys are expended from the fund in connection with a release.

NEW SUBSECTION. 3A. "*Insurance*" means any form of financial assistance or showing of financial responsibility sufficient to comply with the federal Resource Conservation and Recovery Act, 42 U.S.C. §6901 et seq., or the department's underground storage tank financial responsibility rules.

NEW SUBSECTION. 7A. "*Potentially responsible party*" means a person who may be responsible or liable for a release for which payments from the fund were made for corrective action or third-party liability.

NEW SUBSECTION. 7B. "*Program*" means the Iowa tanks fund financing program created pursuant to section 455B.472A.

1 NEW SUBSECTION. 10A. *"Third-party liability"* means any of
2 the following:

3 a. Property damage including physical injury to tangible
4 property, but not including loss of use. Property damage does
5 not include costs to remediate.

6 b. Bodily injury including sickness, physical injury, or
7 death.

8 Sec. 3. Section 455B.471, subsection 3, Code 2021, is
9 amended to read as follows:

10 3. *"Fund"* means the Iowa ~~comprehensive petroleum underground~~
11 ~~storage tank tanks~~ fund created in section 455B.472A.

12 Sec. 4. Section 455B.472, Code 2021, is amended to read as
13 follows:

14 **455B.472 Declaration of policy.**

15 The general assembly finds that the release of regulated
16 substances from underground storage tanks constitutes a
17 threat to the public health and safety and to the natural
18 resources of the state, and that existing regulatory programs
19 of the department and other agencies do not adequately or
20 appropriately address this substantial public concern.

21 Additionally, the general assembly recognizes that because the
22 appropriation of moneys to the Iowa comprehensive petroleum
23 underground storage tank fund created in section 455G.3, Code
24 2020, ended on December 31, 2016, it is in the public interest
25 to expeditiously use any remaining moneys from the Iowa
26 comprehensive petroleum underground storage tank fund to assist
27 as many owners as possible with financing all or part of the
28 costs of corrective action for petroleum releases from leaking
29 underground storage tanks through the establishment of the Iowa
30 tanks fund financing program. The financing program shall last
31 as long as moneys remain available, and the general assembly
32 recognizes that moneys available for the financing program will
33 eventually be depleted.

34 Sec. 5. NEW SECTION. **455B.472A Iowa tanks fund financing**
35 **program — fund created.**

1 1. The department shall establish and administer an Iowa
2 tanks fund financing program for the purpose of reimbursing
3 eligible claimants for all or part of the costs of corrective
4 action for petroleum releases previously eligible for payment
5 from the Iowa comprehensive petroleum underground storage tank
6 fund pursuant to chapter 455G, Code 2020.

7 2. The department shall distribute financial assistance, up
8 to one million dollars total, for work conducted by eligible
9 entities that comply with the requirements of the program. The
10 department shall determine if work completed is eligible for
11 reimbursement under the program.

12 3. The department may enter into and provide any agreements,
13 documents, instruments, certificates, data, or information
14 necessary in connection with the operation, administration, and
15 financing of the program consistent with this part, the federal
16 Resource Conservation and Recovery Act, 42 U.S.C. §6901 et
17 seq., the rules of the commission, and other applicable federal
18 and state law.

19 4. The department may act to conform the program to the
20 applicable guidance and regulations adopted by the United
21 States environmental protection agency.

22 5. The Iowa tanks fund is created in the state treasury
23 under the control of the department. The fund shall consist
24 of moneys appropriated or transferred to the fund, interest
25 attributable to moneys in the fund, moneys in the form of
26 a devise, gift, bequest, donation, federal or other grant,
27 reimbursement, repayment, judgment, or payment from any source
28 intended to be used for the purposes of the fund, all receipts
29 by the fund, and any other moneys credited to the fund from
30 any public or private source. Notwithstanding section 8.33,
31 any moneys in the fund shall not revert to any other fund.
32 Notwithstanding section 12C.7, subsection 2, interest or
33 earnings on moneys in the fund shall be credited to the fund.

34 6. The department shall administer the fund to carry out
35 the purposes of the program and shall manage the revenue,

1 administration, restrictions, and disposition of the fund.

2 7. Moneys in the fund shall be used to reimburse tank owners
3 for all or part of the costs of a corrective action for a
4 petroleum release and for permanent closure of an underground
5 storage tank system under the program, for additional
6 assessment and corrective action arising out of releases at
7 sites for which a certificate of no further action has been
8 issued, for tank operator training, and for administrative
9 costs of the department associated with the program.

10 8. a. For the fiscal year beginning July 1, 2023, and for
11 each fiscal year thereafter, there is appropriated from the
12 general fund of the state to the department of agriculture
13 and land stewardship for the sole purpose of inspecting
14 fuel quality at pipeline terminals and renewable fuel
15 production facilities, including associated salaries, support,
16 maintenance, and miscellaneous purposes, two hundred fifty
17 thousand dollars.

18 b. Notwithstanding section 8.33, moneys appropriated in this
19 subsection that remain unencumbered or unobligated at the close
20 of a fiscal year shall not revert but shall remain available
21 for expenditure for the purposes designated until the close of
22 the succeeding fiscal year.

23 9. Moneys in the fund are not considered part of the general
24 fund of the state and are not subject to appropriation for any
25 other purpose by the general assembly. The fund is a separate
26 dedicated fund under the administration and control of the
27 department.

28 10. Payments for reimbursement or other costs relating to
29 any claim or cause of action in connection with a tank not
30 owned or operated by the state or an agency of the state shall
31 be made solely from the fund and no liability is otherwise
32 imposed upon the state. Moneys from the fund are limited
33 to the extent of coverage provided by the applicable account
34 within the fund under which a claim is submitted, subject
35 to the terms and conditions of that coverage. A court, an

1 administrative law judge, the department, or the commission
2 shall not order or approve a remedy that would require the
3 fund to exceed the fund's then current funding limitations to
4 satisfy an award or that would restrict the availability of
5 moneys for higher priority sites. The state is not otherwise
6 liable for a claim related to the fund and moneys from the
7 general fund shall not be used to pay for reimbursement
8 or other costs relating to any claim or cause of action in
9 connection with a tank not owned or operated by the state or an
10 agency of the state.

11 Sec. 6. NEW SECTION. **455B.472B Cost recovery enforcement.**

12 1. *Full recovery sought by department.* The department
13 may seek full recovery from an owner, operator, or other
14 potentially responsible party liable for a release that is the
15 subject of a corrective action for which moneys from the fund
16 are expended, or for which moneys from the Iowa comprehensive
17 petroleum underground storage tank fund created in section
18 455G.3, Code 2020, were expended, including for third-party
19 liability and for all other costs. If federal cleanup moneys
20 are recovered, the federal cleanup moneys shall be used solely
21 for the purpose of future cleanup activities.

22 2. *Limitation of liability of owner or operator.* Except
23 as provided in subsection 3, the department shall not seek
24 recovery for expenses in connection with corrective action for
25 a release from an owner or operator eligible for assistance
26 under the program, except for any unpaid portion of the
27 deductible or copayment. This section does not affect any
28 authorization of the department to impose or collect civil or
29 administrative fines, penalties, or fees. Moneys from the fund
30 shall not be used to pay for any third-party liability.

31 3. *Owner or operator not in compliance.* Notwithstanding
32 subsection 2, the liability of an owner or operator shall be
33 the full and total costs of corrective action and bodily injury
34 or property damage to third parties, as specified in subsection
35 1, if the owner or operator has not complied with the financial

1 responsibility or other underground storage tank rules of the
2 department or with this part or rules adopted under this part.

3 4. *Lien on tank site.* Any amount for which an owner or
4 operator is required to pay to the fund by statute, rule,
5 contract, or determination of liability by the department after
6 hearing, if not paid when due, shall constitute a lien upon the
7 real property where the tank that was the subject of corrective
8 action is located, and the payment shall be collected in the
9 same manner as the environmental protection charge pursuant to
10 section 424.11, Code 2016.

11 5. *Joinder of parties.* The department has standing in
12 any case or contested action related to the fund or a tank
13 to assert any claim that the department may have regarding
14 the tank at issue in the case or contested action. Upon
15 motion and sufficient showing by a party to a cost recovery or
16 subrogation action provided for under this section, the court
17 or the administrative law judge shall join to the action any
18 potentially responsible party who may be liable for costs and
19 expenditures of the type recoverable pursuant to this section.

20 6. *Third-party contracts.* An insurance, indemnification,
21 hold-harmless, conveyance, or similar risk-sharing or
22 risk-shifting agreement shall not be effective to transfer
23 any liability for costs recoverable under this section. The
24 department may proceed directly against the owner, operator, or
25 other potentially responsible party. This section does not bar
26 any agreement to insure, hold harmless, or indemnify a party to
27 the agreement for any costs or expenditures under this part,
28 and does not modify rights between the parties to an agreement,
29 except to the extent the agreement shifts liability to an owner
30 or operator eligible for assistance under the program for any
31 damages or other costs in connection with a corrective action
32 for which another potentially responsible party is or may be
33 liable. Any such provision is void and of no further force and
34 effect.

35 7. *Later proceedings permitted against other parties.* The

1 entry of judgment against a party to the action does not
2 bar a future action by the department against another person
3 who is later alleged to be or discovered to be liable for
4 costs and expenditures paid from the fund. Notwithstanding
5 section 668.5, a potentially responsible party shall not seek
6 contribution or any other recovery from an owner or operator
7 eligible for assistance under the program for damages or other
8 costs in connection with corrective action for a release for
9 which the potentially responsible party is or may be liable.
10 Subsequent successful proceedings against another party shall
11 not modify or reduce the liability of a party against whom
12 judgment has been previously entered.

13 8. *Claims against potentially responsible parties.*

14 a. Upon payment from the fund for corrective action or
15 third-party liability pursuant to this part, the rights of the
16 claimant to recover payment from any potentially responsible
17 party are assumed by the department to the extent paid from the
18 fund. A claimant shall not receive double compensation for the
19 same injury.

20 b. In an action brought pursuant to this part seeking
21 damages for corrective action or third-party liability, the
22 court shall allow evidence and argument as to the replacement
23 or indemnification of actual economic losses incurred or to be
24 incurred in the future by the claimant by reason of insurance
25 benefits, governmental benefits or programs, or other sources.

26 c. A claimant may elect to authorize the department
27 to pursue the claimant's cause of action for any injury
28 not compensated from the fund against any potentially
29 responsible party, provided the attorney general determines
30 such representation would not be a conflict of interest. If
31 a claimant so elects, the department's litigation expenses
32 shall be shared on a pro rata basis with the claimant, but the
33 claimant's share of litigation expenses is payable exclusively
34 from any share of the settlement or judgment payable to the
35 claimant.

1 9. *Exclusion of punitive damages.* Moneys from the fund
2 shall not be used to pay punitive damages.

3 Sec. 7. NEW SECTION. **455B.472C Discretionary rulemaking.**

4 1. The commission may adopt rules pursuant to chapter
5 17A conditioning receipt of moneys from the fund to those
6 petroleum-contaminated properties that present a higher degree
7 of risk to the public health and safety or the environment and
8 providing for denial of moneys from the fund to a person who
9 did not make a good-faith attempt to comply with this part.
10 This subsection does not confer a legal right to an owner of a
11 petroleum-contaminated property, or an owner or operator of an
12 underground storage tank located on the property, for receipt
13 of moneys under this part.

14 2. The commission may adopt rules pursuant to chapter
15 17A providing for the transfer of all or a portion of the
16 liabilities relating to the fund. Notwithstanding any other
17 provision to the contrary, the department, upon such transfer,
18 shall not maintain any duty to reimburse claimants for those
19 liabilities transferred.

20 Sec. 8. Section 455B.474, subsection 1, paragraph a,
21 subparagraph (6), subparagraph divisions (g), (i), and (j),
22 Code 2021, are amended to read as follows:

23 (g) An owner or operator may elect to proceed with
24 additional corrective action on the site. However, any
25 action taken in addition to that required pursuant to this
26 subparagraph (6), shall be solely at the expense of the owner
27 or operator and shall not be considered corrective action
28 for purposes of [section 455G.9 455B.472A](#), unless otherwise
29 previously agreed to by the ~~board~~ department and the owner or
30 operator pursuant to [section 455G.9, subsection 7 455B.472A](#).
31 Corrective action taken by an owner or operator due to the
32 department's failure to meet the time requirements provided in
33 subparagraph division (e) shall be considered corrective action
34 for purposes of [section 455G.9 455B.472A](#).

35 (i) Replacement or upgrade of a tank on a site classified

1 as a high or low risk site shall be equipped with a secondary
 2 containment system with monitoring of the space between the
 3 primary and secondary containment structures or other ~~board~~
 4 ~~approved~~ tank system or methodology approved by the department.

5 (j) The commission and the ~~board~~ department shall cooperate
 6 to ensure that remedial measures required by the corrective
 7 action rules adopted pursuant to this subparagraph (6) are
 8 reasonably cost-effective and shall, to the fullest extent
 9 possible, avoid duplicating and conflicting requirements.

10 Sec. 9. Section 455B.474, subsection 2, unnumbered
 11 paragraph 1, Code 2021, is amended to read as follows:

12 The maintenance of evidence of financial responsibility as
 13 the director determines to be feasible and necessary for taking
 14 corrective action and for compensating third parties for bodily
 15 injury and property damage caused by release of a regulated
 16 substance from ~~an underground storage~~ a tank.

17 Sec. 10. Section 455B.474, subsection 9, paragraph d, Code
 18 2021, is amended to read as follows:

19 d. The certification of groundwater professionals shall not
 20 impose liability on ~~the board~~, the department, or the fund for
 21 any claim or cause of action of any nature, based on the action
 22 or inaction of a groundwater professional certified pursuant
 23 to this subsection.

24 Sec. 11. Section 455B.474, Code 2021, is amended by adding
 25 the following new subsection:

26 NEW SUBSECTION. 11. Department practices and procedures
 27 for implementing and administering the Iowa tanks fund
 28 financing program. The rules shall include but are not limited
 29 to requirements for program eligibility, investigating and
 30 settling claims made against the fund, appeal procedures,
 31 community remediation, prioritization of fund moneys,
 32 funding for tank operator training, additional assessment
 33 and corrective action arising out of releases at sites for
 34 which a certificate of no further action has been issued, and
 35 reimbursement for the permanent closure of an underground

1 storage tank system.

2 Sec. 12. Section 455B.477, subsection 7, Code 2021, is
3 amended to read as follows:

4 7. ~~The civil penalties or other damages or moneys recovered~~
5 ~~by the state or the petroleum underground storage tank fund~~
6 ~~in connection with a petroleum underground storage tank under~~
7 ~~this part of this division or chapter 455G shall be credited~~
8 ~~to the fund created in section 455G.3 and allocated between~~
9 ~~fund accounts according to the fund budget. Any federal~~
10 ~~moneys, including but not limited to federal underground~~
11 ~~storage tank trust fund moneys, received by the state or the~~
12 ~~department of natural resources in connection with a release~~
13 ~~occurring on or after May 5, 1989, or received generally for~~
14 ~~underground storage tank programs on or after May 5, 1989,~~
15 ~~shall be credited to the fund created in section 455G.3 and~~
16 ~~allocated between fund accounts according to the fund budget~~
17 ~~455B.472A, unless such use would be contrary to federal law.~~
18 ~~The department shall cooperate with the board of the Iowa~~
19 ~~comprehensive petroleum underground storage tank fund to~~
20 ~~maximize the state's eligibility for and receipt of federal~~
21 ~~funds for underground storage tank related purposes.~~

22 Sec. 13. EFFECTIVE DATE. This division of this Act takes
23 effect July 1, 2023.

24 DIVISION II

25 CONFORMING CHANGES

26 Sec. 14. Section 68B.35, subsection 2, paragraph e, Code
27 2021, is amended to read as follows:

28 e. Members of the state banking council, the Iowa ethics
29 and campaign disclosure board, the credit union review board,
30 the economic development authority, the employment appeal
31 board, the environmental protection commission, the health
32 facilities council, the Iowa finance authority, the Iowa public
33 employees' retirement system investment board, the board of
34 the Iowa lottery authority, the natural resource commission,
35 the board of parole, ~~the petroleum underground storage tank~~

1 ~~fund board~~, the public employment relations board, the state
2 racing and gaming commission, the state board of regents, the
3 transportation commission, the office of consumer advocate, the
4 utilities board, the Iowa telecommunications and technology
5 commission, and any full-time members of other boards and
6 commissions as defined under [section 7E.4](#) who receive an annual
7 salary for their service on the board or commission. The Iowa
8 ethics and campaign disclosure board shall conduct an annual
9 review to determine if members of any other board, commission,
10 or authority should file a statement and shall require the
11 filing of a statement pursuant to rules adopted pursuant to
12 chapter 17A.

13 Sec. 15. Section 159A.11, subsection 10, Code 2021, is
14 amended by striking the subsection.

15 Sec. 16. Section 159A.13, subsection 6, Code 2021, is
16 amended by striking the subsection.

17 Sec. 17. Section 159A.14, subsection 2, Code 2021, is
18 amended to read as follows:

19 2. A person may apply to the department to receive financial
20 incentives on a cost-share basis. The department shall forward
21 the applications ~~to the underground storage tank fund board as~~
22 ~~required by that board for evaluation and recommendation. The~~
23 ~~underground storage tank fund board may rank the applications~~
24 ~~with comments and shall forward them~~ to the infrastructure
25 board for approval or disapproval. The department shall award
26 financial incentives on a cost-share basis to an eligible
27 person whose application was approved by the infrastructure
28 board.

29 Sec. 18. Section 159A.15, subsection 1, Code 2021, is
30 amended to read as follows:

31 1. A person may apply to the department to receive financial
32 incentives on a cost-share basis. The department shall forward
33 the applications ~~to the underground storage tank fund board as~~
34 ~~required by that board for evaluation and recommendation. The~~
35 ~~underground storage tank fund board may rank the applications~~

1 ~~with comments and shall forward them~~ to the infrastructure
2 board for approval or disapproval. The department shall award
3 financial incentives on a cost-share basis to an eligible
4 person whose application was approved by the infrastructure
5 board.

6 Sec. 19. Section 323.1, subsection 16, Code 2021, is amended
7 to read as follows:

8 16. "*Storage tank*" means a motor fuel storage tank as
9 defined in [section 214.1](#), including an underground storage tank
10 subject to regulation under chapter ~~455G~~ 455B, division IV,
11 part 8, or section 455G.31.

12 Sec. 20. Section 422.7, subsection 2, paragraph u, Code
13 2021, is amended by striking the paragraph.

14 Sec. 21. Section 455B.174, subsection 4, paragraph d, Code
15 2021, is amended to read as follows:

16 *d.* If a public water supply has a groundwater source
17 that contains petroleum, a fraction of crude oil, or their
18 degradation products, or is located in an area deemed by the
19 department as likely to be contaminated by such materials, and
20 after consultation with the public water supply system and
21 consideration of all applicable rules relating to remediation,
22 the department may require the public water supply system to
23 replace that groundwater source in order to receive a permit
24 to operate. The requirement to replace the source shall only
25 be made by the department if the public water supply system
26 is fully compensated for any additional design, construction,
27 operation, and monitoring costs ~~from the Iowa comprehensive~~
28 ~~petroleum underground storage tank fund created by chapter~~
29 ~~455G or from any other~~ funds that do not impose a financial
30 obligation on the part of the public water supply system.
31 Funds available to or provided by the public water supply
32 system may be used for system improvements made in conjunction
33 with replacement of the source. The department cannot require
34 a public water supply system to replace its water source with a
35 less reliable water source or with a source that does not meet

1 federal primary, secondary, or other health-based standards
2 unless treatment is provided to ensure that the drinking water
3 meets these standards. Nothing in this paragraph shall affect
4 the public water supply system's right to pursue recovery from
5 a responsible party.

6 Sec. 22. Section 455E.11, subsection 2, paragraph d,
7 subparagraph (3), Code 2021, is amended by striking the
8 subparagraph.

9 Sec. 23. Section 455I.2, subsection 5, paragraph a, Code
10 2021, is amended to read as follows:

11 a. A federal or state program that is subject to the
12 jurisdiction of an agency, including but not limited to
13 programs established by [chapters chapter 455B](#) and ~~455G~~,
14 corrective or response actions pursuant to 42 U.S.C. §6901 et
15 seq., and remedial actions under 42 U.S.C. §9601 et seq.

16 Sec. 24. EFFECTIVE DATE. This division of this Act takes
17 effect July 1, 2023.

18 DIVISION III

19 FUEL TESTING STUDY

20 Sec. 25. FUEL TESTING AND LABORATORY NEEDS STUDY.

21 1. The department of agriculture and land stewardship
22 shall conduct a study regarding the long-term future fuel
23 testing needs in Iowa and how to maximize and leverage the
24 Iowa central fuel testing laboratory located at Iowa central
25 community college. The department may consider any matter
26 that it determines to be relevant, including but not limited
27 to the weights and measures bureau's testing needs for fuel
28 inspection, cost analysis for future growth and laboratory
29 equipment, and related support services for both the petroleum
30 and renewable fuel industry in Iowa, which may be administered
31 through a grant program.

32 2. The department may consult with Iowa central community
33 college and shall seek comments from persons and fuel industry
34 leaders in Iowa who have an interest in the Iowa central fuel
35 testing laboratory.

1 3. The department shall submit a report regarding the study,
2 including findings and recommendations, to the governor and
3 general assembly not later than December 15, 2021. The report
4 may include proposed legislation determined by the department
5 to be necessary or desirable.

6 DIVISION IV

7 REPEAL AND TRANSITION

8 Sec. 26. NEW SECTION. **427B.23 Future repeal.**

9 This subchapter is repealed July 1, 2023. All credits
10 existing upon repeal of this subchapter shall continue until
11 their expiration.

12 Sec. 27. NEW SECTION. **455G.21A Claims not eligible.**

13 A claim for a release filed on or after January 1, 2023,
14 shall not be eligible for payment from the fund.

15 Sec. 28. NEW SECTION. **455G.21B Future repeal.**

16 This subchapter is repealed July 1, 2023.

17 Sec. 29. TRANSITION PROVISIONS.

18 1. Upon repeal of chapter 455G, subchapter 1, and the
19 creation of the Iowa tanks fund pursuant to section 455B.472A,
20 as enacted in this Act, all moneys in all funds administered by
21 the Iowa comprehensive petroleum underground storage tank fund
22 board are transferred to the department of natural resources
23 for deposit in the Iowa tanks fund. Any moneys credited to
24 any fund administered by the Iowa comprehensive petroleum
25 underground storage tank fund board on and after July 1, 2023,
26 are transferred to the department for deposit in the Iowa tanks
27 fund.

28 2. Any rule, regulation, form, order, or directive
29 promulgated by the Iowa comprehensive petroleum underground
30 storage tank fund board as required to administer and enforce
31 the provisions relating to the Iowa comprehensive petroleum
32 underground storage tank fund shall continue in full force
33 and effect under the jurisdiction of the department of
34 natural resources until amended, repealed, or supplemented by
35 affirmative action of the department.

1 3. The Iowa comprehensive petroleum underground storage
2 tank fund board shall administratively close or terminate
3 any remaining liabilities, contracts, outstanding claims,
4 payments, or other obligations for open comprehensive petroleum
5 underground storage tank fund claims existing on or before June
6 30, 2023.

7 4. The department of natural resources may begin
8 implementation of this Act prior to July 1, 2023, to the
9 extent necessary to transition to full implementation of the
10 provisions relating to the Iowa tanks fund and repeal of the
11 Iowa comprehensive petroleum underground storage tank fund.

EXPLANATION

13 The inclusion of this explanation does not constitute agreement with
14 the explanation's substance by the members of the general assembly.

15 Currently, the Iowa comprehensive petroleum underground
16 storage tank fund exists under the control of the Iowa
17 comprehensive petroleum underground storage tank fund board.
18 The Iowa comprehensive petroleum underground storage tank fund
19 contains an account with moneys available to fund corrective
20 action for petroleum releases. The Iowa comprehensive
21 petroleum underground storage tank fund also contains a loan
22 guarantee account and a marketability fund.

23 This bill repeals the Iowa comprehensive petroleum
24 underground storage tank fund and eliminates the Iowa
25 comprehensive petroleum underground storage tank fund board
26 on July 1, 2023. The bill requires the department of natural
27 resources (department) to establish and administer the Iowa
28 tanks fund financing program to distribute financial assistance
29 for work conducted by eligible entities. The bill creates the
30 Iowa tanks fund within the state treasury under the control of
31 the department and requires the department to administer the
32 fund. The bill appropriates \$250,000 per year from the general
33 fund to the department of agriculture and land stewardship
34 (DALs) beginning July 1, 2023, to inspect fuel quality at
35 terminals and facilities. The program allows a claimant who

1 has previously received assistance under the Iowa tanks fund or
2 the Iowa comprehensive petroleum underground storage tank fund
3 to receive reimbursement from the Iowa tanks fund for all or
4 part of the costs of corrective action for a petroleum release.
5 The bill allows for cost recovery efforts from potentially
6 responsible parties when moneys from the Iowa tanks fund are
7 used during the cleanup of contamination at a tank site. The
8 bill directs the environmental protection commission to adopt
9 rules for program eligibility, investigating and settling
10 claims made against the fund, appeal procedures, community
11 remediation, prioritization of fund moneys, funding for tank
12 operator training, additional assessment and corrective action
13 arising out of a release at a site for which a no further
14 action certificate has been issued, and reimbursement for
15 the permanent closure of an underground storage tank system.
16 The bill provides that claims for releases filed on or after
17 January 1, 2023, are not eligible for payment from the Iowa
18 comprehensive petroleum underground storage tank fund.

19 The bill requires DALS to conduct a study regarding the
20 long-term future fuel testing needs in Iowa and how to maximize
21 and leverage the Iowa central fuel testing laboratory located
22 at Iowa central community college. The bill requires DALS to
23 submit a report regarding the study to the governor and general
24 assembly not later than December 15, 2021.

25 The bill includes transition provisions retaining the
26 effectiveness of rules, regulations, forms, orders, or
27 directives promulgated by the Iowa comprehensive petroleum
28 underground storage tank fund board until amended, repealed,
29 or supplemented by affirmative action of the department. Any
30 moneys credited to the Iowa comprehensive petroleum underground
31 storage tank fund on and after July 1, 2023, are transferred to
32 the department for deposit in the Iowa tanks fund.

33 The divisions of the bill establishing the Iowa tanks fund
34 and making conforming Code changes take effect July 1, 2023.